

REMARKS

The Final Office Action dated October 6, 2006 considered claims 40-41, and 47-63. Claims 56, 61, and 62 were rejected on the grounds that they "define applicant's invention in a "means plus function" format but do not link or associate particular structure to the function recited in the means plus function claim limitations, and it is not clear based on the facts of the application that one skilled in the art would have known what structure or materials perform the function recited in a means-plus-function limitation." Claims 51-55, and 61-62 were rejected under 35 U.S.C. § 102(e) as being anticipated by Bisdikian et al., U.S. Patent No. 6,047,317 (filed Mar. 28, 1997) (hereinafter Bisdikian). Finally, claims 40-41, 47-50, 56-60, and 63 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Tanigawa et al., U.S. Patent No. 5,973,681 (filed Jun. 2, 1997) (hereinafter Tanigawa), in view of Bisdikian.¹

By this amendment, claims 40-41, 54 and 56 have been amended and claims 51-53 and 61-63 have been cancelled, such that claims 40-41, 47-50, and 54-60 remain pending. Support for the amendments may be found generally throughout the Specification and as is particularly pointed out in the discussion which follows. Claims 40 and 56 are the only independent claims which remain at issue.

As reflected in the claims listing above, the present invention is generally directed towards embodiments for constructing carousels of pages for periodic transmission to subscriber receivers. Claim 40, for example, recites a method which comprises providing a new page of content for a carousel, wherein it is determined if the new page requires reduced latency when transmitted. The method also includes placing the new page in the carousel multiple times if it requires reduced latency, as well as determining which pages within the carousel contain links to other pages, modifying the metadata for each page which contains links to another page or is linked from another page, determining when the carousel is ready to be transmitted, and periodically transmitting the carousel image on a transmission medium until there is a change in the carousel. Claim 56 is a "system" embodiment recited in "means for" language of a method similar to that recited in claim 40.

¹ Although the prior art status of the cited art is not being challenged at this time, Applicant reserves the right to challenge the prior art status of the cited art at any appropriate time, should it arise. Accordingly, any arguments and amendments made herein should not be construed as acquiescing to any prior art status of the cited art.

Claims 40 and 56 have both been amended in order to clarify the innovation of the present invention and make the claimed matter more readily understandable.² As mentioned above, claims 40 and 56 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Tanigawa in view of Bisdikian. However, Applicants respectfully submit that Tanigawa and Bisdikian fail to teach or suggest, alone or in combination, all the elements of the present invention for at least the reasons that follow. Initially, it will be appreciated that there are notable differences between the claimed embodiments and what is taught by the cited prior art, Tanigawa and Bisdikian. In particular, Tanigawa is directed towards a transmitting apparatus for an interactive communication system wherein two distinct storage units are utilized where the second unit stores control information showing links between the frames of image data stored on the first storage unit and where the transmitting unit repeatedly transmits a *predetermined* number of frames of image data.³ Bisdikian, on the other hand, is directed generally towards systems and methods for enabling a user to rapidly access images in cyclically transmitted image streams by providing plural copies of higher priority data segments in each repetitively transmitted series.⁴

While the Examiner cites to Tanigawa as the main reference in the § 103 rejection,⁵ it should be noted that Tanigawa teaches a transmission cycle of *n* pages but Tanigawa does not teach "providing a new page of content for a carousel of pages."⁶ Tanigawa teaches constructing a series of *n* pages but it does not teach providing a new page for an *already existing* carousel. That the carousel was already existing in the present invention was inherent in that, without the prior existence of the carousel, the remaining steps of the method (i.e., checking the links to the other pages) would be merely superfluous. Furthermore, Tanigawa does not teach either the determination that the new page or the existing pages in the carousel contain links to each other, respectively, or, in response to determining that the links exist, the modifying of the

² It should be noted that the amendments of claims 40 and 56 are provided for clarity and are not in response to any issue of patentability or to overcome any teaching of the cited prior art. Claim 56 was originally a system embodying a method very similar to that recited in claim 40 and the present amendment to claim 56 simply makes that relationship explicit.

³ See Tanigawa, Abstract (emphasis added).

⁴ See, generally, Bisdikian.

⁵ See Office Communication pp. 7-8.

⁶ See Tanigawa col.19 l.29-50.

metadata in either the new page or the already existing pages, particularly as claimed in combination with the other recited claim elements.⁷

Although Tanigawa does teach the generation of "hot spot" information,⁸ Tanigawa teaches an *a priori* assembling of the 1-n pages in preparation for transmission but does not teach an incremental determination of links among pages in response to a new page being introduced to an already existing carousel of pages and a repetitive modification of metadata in response to such determinations as is taught by the present invention. Finally, the Examiner cites to Tanigawa for the repetition of the determination and modification steps⁹ but the cited portion of Tanigawa teaches only that "the transmitting unit [] successively transmits the transmission data which has been multiplexed"¹⁰ and neither the cited portion nor the entirety of Tanigawa teaches that, after new pages are introduced to an existing carousel that a determination of cross-links is made and modification of metadata is performed in response to such determinations, as recited in combination with the other recited claim elements. It should be noted that Bisdikian, cited for the element of a page being placed in a carousel more than once to reduce latency times, does not supply the elements missing as discussed above.¹¹ In view of the elements of the present invention which are claimed but are not disclosed by the prior art, as discussed above, the Applicant respectfully submits that claims 40 and 56 are both in condition for allowance and, correspondingly, respectfully requests the Examiner withdraw the rejection and allow the claims.

Claims 56, 61, and 62 were rejected under 35 U.S.C. § 112 on the grounds that they "define applicant's invention in a 'means plus function' format but do not link or associate particular structure to the function recited in the means plus function claim limitations."¹² Claims 61 and 62 have been cancelled, such that the rejections to these claims are moot.¹³ Claim 56, however, which remains pending, recites a system embodying, essentially, the method recited in claim 40 with "means plus function" language. With regard to the rejection of claim 56, in this regard, Applicant submits that the structure, as required by 35 U.S.C. § 112 (and MPEP 2181), is sufficiently provided within the Specification. In particular, the Specification sets forth

⁷ See Tanigawa col.13 l.64 – col.14 l.48.

⁸ See Tanigawa col.12 l.15–43; see also Tanigawa fig's 9A–10B.

⁹ See Office Communication p. 8.

¹⁰ See Tanigawa col.19 l.29–50.

¹¹ See, generally, Bisdikian.

¹² See Office Communication pp. 2–5.

¹³ Applicant does not evince any capitulation to the rejections of claims 61 & 62 but has elected to cancel in order to direct attention toward a smaller set of independent claims.

computer hardware, systems, transmission systems, and specific hardware configurations which suffice to provide the requisite structure required by 35 U.S.C. § 112.¹⁴ In claim 56, for example, the "means for" can include (but is not limited to) a head-end LAN, a download server, an ethernet connection, a satellite integrated receiver, an IF/Rf upconverter, 128 megabytes of RAM, serial protocol interface card, rack-mounted computer systems, ISDN or better connection to external data sources, operating systems such as Microsoft NT Server 4.0 and Microsoft Clustering Software, and numerous and well-defined other structural elements as recited in the Specification.¹⁵ The Applicant respectfully submits that sufficient structure to satisfy the requirements of both 35 U.S.C. § 112 and the MPEP are provided within the Specification and, as such, claim 56 is in condition for allowance and the rejection of the "means for" language should be withdrawn. Correspondingly, the Applicant respectfully requests that claim 56 now be allowed.

In view of the foregoing, Applicant respectfully submits that the other rejections to the claims are now moot and do not, therefore, need to be addressed individually at this time. It will be appreciated, however, that this should not be construed as Applicant acquiescing to any of the purported teachings or assertions made in the last action regarding the cited art or the pending application, including any official notice. Instead, Applicant reserves the right to challenge any of the purported teachings or assertions made in the last action at any appropriate time in the future, should the need arise. Furthermore, to the extent that the Examiner has relied on any Official Notice, explicitly or implicitly, Applicant specifically requests that the Examiner provide references supporting the teachings officially noticed, as well as the required motivation or suggestion to combine the relied upon notice with the other art of record.

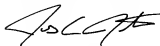
In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

¹⁴ See Specification pp. 7-11,

¹⁵ *Id.*; see also, generally, Specification.

Dated this 6th day of December, 2006.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Rick D. Nydegger", with a stylized flourish at the end.

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